

110TH CONGRESS
2D SESSION

H. R. 6275

To amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2008

Mr. RANGEL (for himself, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. POMEROY, Mrs. JONES of Ohio, Mr. BLUMENAUER, Ms. BERKLEY, Mr. CROWLEY, Mr. VAN HOLLEN, Mr. MEEK of Florida, Mr. LEVIN, and Mr. LARSON of Connecticut) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide individuals temporary relief from the alternative minimum tax, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Alternative Minimum Tax Relief Act of 2008”.

6 (b) REFERENCE.—Except as otherwise expressly pro-
7 vided, whenever in this Act an amendment or repeal is
8 expressed in terms of an amendment to, or repeal of, a

1 section or other provision, the reference shall be consid-
 2 ered to be made to a section or other provision of the In-
 3 ternal Revenue Code of 1986.

4 (c) TABLE OF CONTENTS.—The table of contents for
 5 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—INDIVIDUAL TAX RELIEF

Sec. 101. Extension of increased alternative minimum tax exemption amount.
 Sec. 102. Extension of alternative minimum tax relief for nonrefundable per-
 sonal credits.

TITLE II—REVENUE PROVISIONS

Sec. 201. Income of partners for performing investment management services
 treated as ordinary income received for performance of serv-
 ices.
 Sec. 202. Limitation of deduction for income attributable to domestic produc-
 tion of oil, gas, or primary products thereof.
 Sec. 203. Limitation on treaty benefits for certain deductible payments.
 Sec. 204. Returns relating to payments made in settlement of payment card
 and third party network transactions.
 Sec. 205. Application of continuous levy to property sold or leased to the Fed-
 eral Government.
 Sec. 206. Time for payment of corporate estimated taxes.

6 **TITLE I—INDIVIDUAL TAX** 7 **RELIEF**

8 **SEC. 101. EXTENSION OF INCREASED ALTERNATIVE MIN-** 9 **IMUM TAX EXEMPTION AMOUNT.**

10 (a) IN GENERAL.—Paragraph (1) of section 55(d) is
 11 amended—

12 (1) by striking “(\$66,250 in the case of taxable
 13 years beginning in 2007)” in subparagraph (A) and
 14 inserting “(\$69,950 in the case of taxable years be-
 15 ginning in 2008)”, and

1 (2) by striking “(\$44,350 in the case of taxable
2 years beginning in 2007)” in subparagraph (B) and
3 inserting “(\$46,200 in the case of taxable years be-
4 ginning in 2008)”.

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2007.

8 **SEC. 102. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
9 **LIEF FOR NONREFUNDABLE PERSONAL**
10 **CREDITS.**

11 (a) **IN GENERAL.**—Paragraph (2) of section 26(a) is
12 amended—

13 (1) by striking “or 2007” and inserting “2007,
14 or 2008”, and

15 (2) by striking “2007” in the heading thereof
16 and inserting “2008”.

17 (b) **EFFECTIVE DATE.**—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 2007.

1 **TITLE II—REVENUE PROVISIONS**

2 **SEC. 201. INCOME OF PARTNERS FOR PERFORMING IN-**
 3 **VESTMENT MANAGEMENT SERVICES TREAT-**
 4 **ED AS ORDINARY INCOME RECEIVED FOR**
 5 **PERFORMANCE OF SERVICES.**

6 (a) IN GENERAL.—Part I of subchapter K of chapter
 7 1 is amended by adding at the end the following new sec-
 8 tion:

9 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-**
 10 **VESTMENT MANAGEMENT SERVICES TO**
 11 **PARTNERSHIP.**

12 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
 13 PARTNERSHIP ITEMS.—For purposes of this title, in the
 14 case of an investment services partnership interest—

15 “(1) IN GENERAL.—Notwithstanding section
 16 702(b)—

17 “(A) any net income with respect to such
 18 interest for any partnership taxable year shall
 19 be treated as ordinary income for the perform-
 20 ance of services, and

21 “(B) any net loss with respect to such in-
 22 terest for such year, to the extent not dis-
 23 allowed under paragraph (2) for such year,
 24 shall be treated as an ordinary loss.

1 All items of income, gain, deduction, and loss which
2 are taken into account in computing net income or
3 net loss shall be treated as ordinary income or ordi-
4 nary loss (as the case may be).

5 “(2) TREATMENT OF LOSSES.—

6 “(A) LIMITATION.—Any net loss with re-
7 spect to such interest shall be allowed for any
8 partnership taxable year only to the extent that
9 such loss does not exceed the excess (if any)
10 of—

11 “(i) the aggregate net income with re-
12 spect to such interest for all prior partner-
13 ship taxable years, over

14 “(ii) the aggregate net loss with re-
15 spect to such interest not disallowed under
16 this subparagraph for all prior partnership
17 taxable years.

18 “(B) CARRYFORWARD.—Any net loss for
19 any partnership taxable year which is not al-
20 lowed by reason of subparagraph (A) shall be
21 treated as an item of loss with respect to such
22 partnership interest for the succeeding partner-
23 ship taxable year.

24 “(C) BASIS ADJUSTMENT.—No adjustment
25 to the basis of a partnership interest shall be

made on account of any net loss which is not allowed by reason of subparagraph (A).

“(D) EXCEPTION FOR BASIS ATTRIBUTABLE TO PURCHASE OF A PARTNERSHIP INTEREST.—In the case of an investment services partnership interest acquired by purchase, paragraph (1)(B) shall not apply to so much of any net loss with respect to such interest for any taxable year as does not exceed the excess of—

“(i) the basis of such interest immediately after such purchase, over

“(ii) the aggregate net loss with respect to such interest to which paragraph (1)(B) did not apply by reason of this subparagraph for all prior taxable years.

Any net loss to which paragraph (1)(B) does not apply by reason of this subparagraph shall not be taken into account under subparagraph (A).

“(E) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

“(3) NET INCOME AND LOSS.—For purposes of this section—

1 “(A) NET INCOME.—The term ‘net in-
2 come’ means, with respect to any investment
3 services partnership interest, for any partner-
4 ship taxable year, the excess (if any) of—

5 “(i) all items of income and gain
6 taken into account by the holder of such
7 interest under section 702 with respect to
8 such interest for such year, over

9 “(ii) all items of deduction and loss so
10 taken into account.

11 “(B) NET LOSS.—The term ‘net loss’
12 means with respect to such interest for such
13 year, the excess (if any) of the amount de-
14 scribed in subparagraph (A)(ii) over the amount
15 described in subparagraph (A)(i).

16 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

17 “(1) GAIN.—Any gain on the disposition of an
18 investment services partnership interest shall be
19 treated as ordinary income for the performance of
20 services.

21 “(2) LOSS.—Any loss on the disposition of an
22 investment services partnership interest shall be
23 treated as an ordinary loss to the extent of the ex-
24 cess (if any) of—

1 “(A) the aggregate net income with respect
 2 to such interest for all partnership taxable
 3 years, over

4 “(B) the aggregate net loss with respect to
 5 such interest allowed under subsection (a)(2)
 6 for all partnership taxable years.

7 “(3) DISPOSITION OF PORTION OF INTEREST.—

8 In the case of any disposition of an investment serv-
 9 ices partnership interest, the amount of net loss
 10 which otherwise would have (but for subsection
 11 (a)(2)(C)) applied to reduce the basis of such inter-
 12 est shall be disregarded for purposes of this section
 13 for all succeeding partnership taxable years.

14 “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-
 15 erty.—In the case of any distribution of property
 16 by a partnership with respect to any investment
 17 services partnership interest held by a partner—

18 “(A) the excess (if any) of—

19 “(i) the fair market value of such
 20 property at the time of such distribution,
 21 over

22 “(ii) the adjusted basis of such prop-
 23 erty in the hands of the partnership,
 24 shall be taken into account as an increase in
 25 such partner’s distributive share of the taxable

1 income of the partnership (except to the extent
 2 such excess is otherwise taken into account in
 3 determining the taxable income of the partner-
 4 ship),

5 “(B) such property shall be treated for
 6 purposes of subpart B of part II as money dis-
 7 tributed to such partner in an amount equal to
 8 such fair market value, and

9 “(C) the basis of such property in the
 10 hands of such partner shall be such fair market
 11 value.

12 Subsection (b) of section 734 shall be applied with-
 13 out regard to the preceding sentence.

14 “(5) APPLICATION OF SECTION 751.—In apply-
 15 ing section 751(a), an investment services partner-
 16 ship interest shall be treated as an inventory item.

17 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-
 18 EST.—For purposes of this section—

19 “(1) IN GENERAL.—The term ‘investment serv-
 20 ices partnership interest’ means any interest in a
 21 partnership which is held by any person if such per-
 22 son provides (directly or indirectly) a substantial
 23 quantity of any of the following services with respect
 24 to the assets of the partnership in the conduct of the
 25 trade or business of providing such services:

1 “(A) Advising as to the advisability of in-
 2 vesting in, purchasing, or selling any specified
 3 asset.

4 “(B) Managing, acquiring, or disposing of
 5 any specified asset.

6 “(C) Arranging financing with respect to
 7 acquiring specified assets.

8 “(D) Any activity in support of any service
 9 described in subparagraphs (A) through (C).

10 For purposes of this paragraph, the term ‘specified
 11 asset’ means securities (as defined in section
 12 475(c)(2) without regard to the last sentence there-
 13 of), real estate, commodities (as defined in section
 14 475(e)(2))), or options or derivative contracts with
 15 respect to securities (as so defined), real estate, or
 16 commodities (as so defined).

17 “(2) EXCEPTION FOR CERTAIN CAPITAL INTER-
 18 ESTS.—

19 “(A) IN GENERAL.—If—

20 “(i) a portion of an investment serv-
 21 ices partnership interest is acquired on ac-
 22 count of a contribution of invested capital,
 23 and

24 “(ii) the partnership makes a reason-
 25 able allocation of partnership items be-

1 tween the portion of the distributive share
2 that is with respect to invested capital and
3 the portion of such distributive share that
4 is not with respect to invested capital,

5 then subsection (a) shall not apply to the por-
6 tion of the distributive share that is with re-
7 spect to invested capital. An allocation will not
8 be treated as reasonable for purposes of this
9 subparagraph if such allocation would result in
10 the partnership allocating a greater portion of
11 income to invested capital than any other part-
12 ner not providing services would have been allo-
13 cated with respect to the same amount of in-
14 vested capital.

15 “(B) SPECIAL RULE FOR DISPOSITIONS.—

16 In any case to which subparagraph (A) applies,
17 subsection (b) shall not apply to any gain or
18 loss allocable to invested capital. The portion of
19 any gain or loss attributable to invested capital
20 is the proportion of such gain or loss which is
21 based on the distributive share of gain or loss
22 that would have been allocable to invested cap-
23 ital under subparagraph (A) if the partnership
24 sold all of its assets immediately before the dis-
25 position.

1 “(C) INVESTED CAPITAL.—For purposes
2 of this paragraph, the term ‘invested capital’
3 means, the fair market value at the time of con-
4 tribution of any money or other property con-
5 tributed to the partnership.

6 “(D) TREATMENT OF CERTAIN LOANS.—

7 “(i) PROCEEDS OF PARTNERSHIP
8 LOANS NOT TREATED AS INVESTED CAP-
9 ITAL OF SERVICE PROVIDING PARTNERS.—

10 For purposes of this paragraph, an invest-
11 ment services partnership interest shall not
12 be treated as acquired on account of a con-
13 tribution of invested capital to the extent
14 that such capital is attributable to the pro-
15 ceeds of any loan or other advance made or
16 guaranteed, directly or indirectly, by any
17 partner or the partnership.

18 “(ii) LOANS FROM NONSERVICE PRO-
19 VIDING PARTNERS TO THE PARTNERSHIP
20 TREATED AS INVESTED CAPITAL.—For
21 purposes of this paragraph, any loan or
22 other advance to the partnership made or
23 guaranteed, directly or indirectly, by a
24 partner not providing services to the part-
25 nership shall be treated as invested capital

1 of such partner and amounts of income
2 and loss treated as allocable to invested
3 capital shall be adjusted accordingly.

4 “(d) OTHER INCOME AND GAIN IN CONNECTION
5 WITH INVESTMENT MANAGEMENT SERVICES.—

6 “(1) IN GENERAL.—If—

7 “(A) a person performs (directly or indi-
8 rectly) investment management services for any
9 entity,

10 “(B) such person holds a disqualified in-
11 terest with respect to such entity, and

12 “(C) the value of such interest (or pay-
13 ments thereunder) is substantially related to
14 the amount of income or gain (whether or not
15 realized) from the assets with respect to which
16 the investment management services are per-
17 formed,

18 any income or gain with respect to such interest
19 shall be treated as ordinary income for the perform-
20 ance of services. Rules similar to the rules of sub-
21 section (c)(2) shall apply where such interest was ac-
22 quired on account of invested capital in such entity.

23 “(2) DEFINITIONS.—For purposes of this sub-
24 section—

1 “(A) DISQUALIFIED INTEREST.—The term
2 ‘disqualified interest’ means, with respect to
3 any entity—

4 “(i) any interest in such entity other
5 than indebtedness,

6 “(ii) convertible or contingent debt of
7 such entity,

8 “(iii) any option or other right to ac-
9 quire property described in clause (i) or
10 (ii), and

11 “(iv) any derivative instrument en-
12 tered into (directly or indirectly) with such
13 entity or any investor in such entity.

14 Such term shall not include a partnership inter-
15 est and shall not include stock in a taxable cor-
16 poration.

17 “(B) TAXABLE CORPORATION.—The term
18 ‘taxable corporation’ means—

19 “(i) a domestic C corporation, or

20 “(ii) a foreign corporation subject to a
21 comprehensive foreign income tax (as de-
22 fined in section 457A(d)(4)).

23 “(C) INVESTMENT MANAGEMENT SERV-
24 ICES.—The term ‘investment management serv-
25 ices’ means a substantial quantity of any of the

1 services described in subsection (c)(1) which are
2 provided in the conduct of the trade or business
3 of providing such services.

4 “(e) REGULATIONS.—The Secretary shall prescribe
5 such regulations as are necessary or appropriate to carry
6 out the purposes of this section, including regulations to—

7 “(1) prevent the avoidance of the purposes of
8 this section, and

9 “(2) coordinate this section with the other pro-
10 visions of this subchapter.

11 “(f) CROSS REFERENCE.—For 40 percent no fault
12 penalty on certain underpayments due to the avoidance
13 of this section, see section 6662.”.

14 (b) APPLICATION TO REAL ESTATE INVESTMENT
15 TRUSTS.—

16 (1) IN GENERAL.—Subsection (c) of section
17 856 is amended by adding at the end the following
18 new paragraph:

19 “(8) EXCEPTION FROM RECHARACTERIZATION
20 OF INCOME FROM INVESTMENT SERVICES PARTNER-
21 SHIP INTERESTS.—

22 “(A) IN GENERAL.—Paragraphs (2), (3),
23 and (4) shall be applied without regard to sec-
24 tion 710 (relating to special rules for partners

1 providing investment management services to
 2 partnership).

3 “(B) SPECIAL RULE FOR PARTNERSHIPS
 4 OWNED BY REITS.—Section 7704 shall be ap-
 5 plied without regard to section 710 in the case
 6 of a partnership which meets each of the fol-
 7 lowing requirements:

8 “(i) Such partnership is treated as
 9 publicly traded under section 7704 solely
 10 by reason of interests in such partnership
 11 being convertible into interests in a real es-
 12 tate investment trust which is publicly
 13 traded.

14 “(ii) 50 percent or more of the capital
 15 and profits interests of such partnership
 16 are owned, directly or indirectly, at all
 17 times during the taxable year by such real
 18 estate investment trust (determined with
 19 the application of section 267(c)).

20 “(iii) Such partnership meets the re-
 21 quirements of paragraphs (2), (3), and (4)
 22 (applied without regard to section 710).”.

23 (2) CONFORMING AMENDMENT.—Paragraph (4)
 24 of section 7704(d) is amended by inserting “(deter-

1 mined without regard to section 856(c)(8))” after
 2 “856(c)(2)”.

3 (c) IMPOSITION OF PENALTY ON UNDERPAY-
 4 MENTS.—

5 (1) IN GENERAL.—Subsection (b) of section
 6 6662 is amended by inserting after paragraph (5)
 7 the following new paragraph:

8 “(6) The application of subsection (d) of section
 9 710 or the regulations prescribed under section
 10 710(e) to prevent the avoidance of the purposes of
 11 section 710.”.

12 (2) AMOUNT OF PENALTY.—

13 (A) IN GENERAL.—Section 6662 is amend-
 14 ed by adding at the end the following new sub-
 15 section:

16 “(i) INCREASE IN PENALTY IN CASE OF PROPERTY
 17 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
 18 ICES.—In the case of any portion of an underpayment to
 19 which this section applies by reason of subsection (b)(6),
 20 subsection (a) shall be applied with respect to such portion
 21 by substituting ‘40 percent’ for ‘20 percent’.”.

22 (B) CONFORMING AMENDMENTS.—Sub-
 23 paragraph (B) of section 6662A(e)(2) is
 24 amended—

1 (i) by striking “section 6662(h)” and
 2 inserting “subsection (h) or (i) of section
 3 6662”, and

4 (ii) by striking “GROSS VALUATION
 5 MISSTATEMENT PENALTY” in the heading
 6 and inserting “CERTAIN INCREASED UN-
 7 DERPAYMENT PENALTIES”.

8 (3) REASONABLE CAUSE EXCEPTION NOT AP-
 9 PPLICABLE.—Subsection (c) of section 6664 is
 10 amended—

11 (A) by redesignating paragraphs (2) and
 12 (3) as paragraphs (3) and (4), respectively,

13 (B) by striking “paragraph (2)” in para-
 14 graph (4), as so redesignated, and inserting
 15 “paragraph (3)”, and

16 (C) by inserting after paragraph (1) the
 17 following new paragraph:

18 “(2) EXCEPTION.—Paragraph (1) shall not
 19 apply to any portion of an underpayment to which
 20 this section applies by reason of subsection (b)(6).”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) Subsection (d) of section 731 is amended by
 23 inserting “section 710(b)(4) (relating to distribu-
 24 tions of partnership property),” before “section
 25 736”.

1 (2) Section 741 is amended by inserting “or
2 section 710 (relating to special rules for partners
3 providing investment management services to part-
4 nership)” before the period at the end.

5 (3) Paragraph (13) of section 1402(a) is
6 amended—

7 (A) by striking “other than guaranteed”
8 and inserting “other than—

9 “(A) guaranteed”,

10 (B) by striking the semi-colon at the end
11 and inserting “, and”, and

12 (C) by adding at the end the following new
13 subparagraph:

14 “(B) any income treated as ordinary in-
15 come under section 710 received by an indi-
16 vidual who provides investment management
17 services (as defined in section 710(d)(2));”.

18 (4) Paragraph (12) of section 211(a) of the So-
19 cial Security Act is amended—

20 (A) by striking “other than guaranteed”
21 and inserting “other than—

22 “(A) guaranteed”,

23 (B) by striking the semi-colon at the end
24 and inserting “, and”, and

1 (C) by adding at the end the following new
 2 subparagraph:

3 “(B) any income treated as ordinary in-
 4 come under section 710 of the Internal Revenue
 5 Code of 1986 received by an individual who
 6 provides investment management services (as
 7 defined in section 710(d)(2) of such Code);”.

8 (5) The table of sections for part I of sub-
 9 chapter K of chapter 1 is amended by adding at the
 10 end the following new item:

“Sec. 710. Special rules for partners providing investment management services
 to partnership.”.

11 (e) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as otherwise pro-
 13 vided in this subsection, the amendments made by
 14 this section shall apply to taxable years ending after
 15 June 18, 2008.

16 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
 17 CLUDE EFFECTIVE DATE.—In applying section
 18 710(a) of the Internal Revenue Code of 1986 (as
 19 added by this section) in the case of any partnership
 20 taxable year which includes June 18, 2008, the
 21 amount of the net income referred to in such section
 22 shall be treated as being the lesser of the net income
 23 for the entire partnership taxable year or the net in-
 24 come determined by only taking into account items

1 attributable to the portion of the partnership taxable
2 year which is after such date.

3 (3) DISPOSITIONS OF PARTNERSHIP INTER-
4 ESTS.—Section 710(b) of the Internal Revenue Code
5 of 1986 (as added by this section) shall apply to dis-
6 positions and distributions after June 18, 2008.

7 (4) OTHER INCOME AND GAIN IN CONNECTION
8 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
9 tion 710(d) of such Code (as added by this section)
10 shall take effect on June 18, 2008.

11 (5) PUBLICLY TRADED PARTNERSHIPS.—For
12 purposes of applying section 7704, the amendments
13 made by this section shall apply to taxable years be-
14 ginning after December 31, 2010.

15 **SEC. 202. LIMITATION OF DEDUCTION FOR INCOME AT-**
16 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**
17 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

18 (a) DENIAL OF DEDUCTION FOR MAJOR INTE-
19 GRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO
20 DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY
21 PRODUCTS THEREOF.—

22 (1) IN GENERAL.—Subparagraph (B) of section
23 199(c)(4) (relating to exceptions) is amended by
24 striking “or” at the end of clause (ii), by striking
25 the period at the end of clause (iii) and inserting “,

1 or”, and by inserting after clause (iii) the following
2 new clause:

3 “(iv) in the case of any major inte-
4 grated oil company (as defined in section
5 167(h)(5)(B)), the production, refining,
6 processing, transportation, or distribution
7 of oil, gas, or any primary product thereof
8 during any taxable year described in sec-
9 tion 167(h)(5)(B).”.

10 (2) PRIMARY PRODUCT.—Section 199(c)(4)(B)
11 is amended by adding at the end the following flush
12 sentence:

13 “For purposes of clause (iv), the term ‘primary
14 product’ has the same meaning as when used in
15 section 927(a)(2)(C), as in effect before its re-
16 peal.”.

17 (b) LIMITATION ON OIL RELATED QUALIFIED PRO-
18 Duction ACTIVITIES INCOME FOR TAXPAYERS OTHER
19 THAN MAJOR INTEGRATED OIL COMPANIES.—

20 (1) IN GENERAL.—Section 199(d) is amended
21 by redesignating paragraph (9) as paragraph (10)
22 and by inserting after paragraph (8) the following
23 new paragraph:

1 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL
2 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-
3 COME.—

4 “(A) IN GENERAL.—If a taxpayer (other
5 than a major integrated oil company (as defined
6 in section 167(h)(5)(B))) has oil related quali-
7 fied production activities income for any taxable
8 year beginning after 2009, the amount of the
9 deduction under subsection (a) shall be reduced
10 by 3 percent of the least of—

11 “(i) the oil related qualified produc-
12 tion activities income of the taxpayer for
13 the taxable year,

14 “(ii) the qualified production activities
15 income of the taxpayer for the taxable
16 year, or

17 “(iii) taxable income (determined
18 without regard to this section).

19 “(B) OIL RELATED QUALIFIED PRODUC-
20 TION ACTIVITIES INCOME.—The term ‘oil re-
21 lated qualified production activities income’
22 means for any taxable year the qualified pro-
23 duction activities income which is attributable
24 to the production, refining, processing, trans-
25 portation, or distribution of oil, gas, or any pri-

1 mary product thereof during such taxable
2 year.”.

3 (2) CONFORMING AMENDMENT.—Section
4 199(d)(2) (relating to application to individuals) is
5 amended by striking “subsection (a)(1)(B)” and in-
6 serting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2008.

10 **SEC. 203. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
11 **DEDUCTIBLE PAYMENTS.**

12 (a) IN GENERAL.—Section 894 (relating to income
13 affected by treaty) is amended by adding at the end the
14 following new subsection:

15 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
16 TAIN DEDUCTIBLE PAYMENTS.—

17 “(1) IN GENERAL.—In the case of any deduct-
18 ible related-party payment, any withholding tax im-
19 posed under chapter 3 (and any tax imposed under
20 subpart A or B of this part) with respect to such
21 payment may not be reduced under any treaty of the
22 United States unless any such withholding tax would
23 be reduced under a treaty of the United States if
24 such payment were made directly to the foreign par-
25 ent corporation.

1 “(2) DEDUCTIBLE RELATED-PARTY PAY-
2 MENT.—For purposes of this subsection, the term
3 ‘deductible related-party payment’ means any pay-
4 ment made, directly or indirectly, by any person to
5 any other person if the payment is allowable as a de-
6 duction under this chapter and both persons are
7 members of the same foreign controlled group of en-
8 tities.

9 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
10 TIES.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘foreign
12 controlled group of entities’ means a controlled
13 group of entities the common parent of which
14 is a foreign corporation.

15 “(B) CONTROLLED GROUP OF ENTITIES.—
16 The term ‘controlled group of entities’ means a
17 controlled group of corporations as defined in
18 section 1563(a)(1), except that—

19 “(i) ‘more than 50 percent’ shall be
20 substituted for ‘at least 80 percent’ each
21 place it appears therein, and

22 “(ii) the determination shall be made
23 without regard to subsections (a)(4) and
24 (b)(2) of section 1563.

1 A partnership or any other entity (other than a
2 corporation) shall be treated as a member of a
3 controlled group of entities if such entity is con-
4 trolled (within the meaning of section
5 954(d)(3)) by members of such group (includ-
6 ing any entity treated as a member of such
7 group by reason of this sentence).

8 “(4) FOREIGN PARENT CORPORATION.—For
9 purposes of this subsection, the term ‘foreign parent
10 corporation’ means, with respect to any deductible
11 related-party payment, the common parent of the
12 foreign controlled group of entities referred to in
13 paragraph (3)(A).

14 “(5) REGULATIONS.—The Secretary may pre-
15 scribe such regulations or other guidance as are nec-
16 essary or appropriate to carry out the purposes of
17 this subsection, including regulations or other guid-
18 ance which provide for—

19 “(A) the treatment of two or more persons
20 as members of a foreign controlled group of en-
21 tities if such persons would be the common par-
22 ent of such group if treated as one corporation,
23 and

24 “(B) the treatment of any member of a
25 foreign controlled group of entities as the com-

1 mon parent of such group if such treatment is
 2 appropriate taking into account the economic
 3 relationships among such entities.”.

4 (b) EFFECTIVE DATE.—The amendment made by
 5 this section shall apply to payments made after the date
 6 of the enactment of this Act.

7 **SEC. 204. RETURNS RELATING TO PAYMENTS MADE IN SET-**
 8 **TLEMENT OF PAYMENT CARD AND THIRD**
 9 **PARTY NETWORK TRANSACTIONS.**

10 (a) IN GENERAL.—Subpart B of part III of sub-
 11 chapter A of chapter 61 is amended by adding at the end
 12 the following new section:

13 **“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN**
 14 **SETTLEMENT OF PAYMENT CARD AND THIRD**
 15 **PARTY NETWORK TRANSACTIONS.**

16 “(a) IN GENERAL.—Each payment settlement entity
 17 shall make a return for each calendar year setting forth—

18 “(1) the name, address, and TIN of each par-
 19 ticipating payee to whom one or more payments in
 20 settlement of reportable transactions are made, and

21 “(2) the gross amount of the reportable trans-
 22 actions with respect to each such participating
 23 payee.

24 Such return shall be made at such time and in such form
 25 and manner as the Secretary may require by regulations.

1 “(b) PAYMENT SETTLEMENT ENTITY.—For pur-
2 poses of this section—

3 “(1) IN GENERAL.—The term ‘payment settle-
4 ment entity’ means—

5 “(A) in the case of a payment card trans-
6 action, the merchant acquiring bank, and

7 “(B) in the case of a third party network
8 transaction, the third party settlement organi-
9 zation.

10 “(2) MERCHANT ACQUIRING BANK.—The term
11 ‘merchant acquiring bank’ means the bank or other
12 organization which has the contractual obligation to
13 make payment to participating payees in settlement
14 of payment card transactions.

15 “(3) THIRD PARTY SETTLEMENT ORGANIZA-
16 TION.—The term ‘third party settlement organiza-
17 tion’ means the central organization which has the
18 contractual obligation to make payment to partici-
19 pating payees of third party network transactions.

20 “(4) SPECIAL RULES RELATED TO INTER-
21 MEDIARIES.—For purposes of this section—

22 “(A) AGGREGATED PAYEES.—In any case
23 where reportable transactions of more than one
24 participating payee are settled through an inter-
25 mediary—

1 “(i) such intermediary shall be treated
 2 as the participating payee for purposes of
 3 determining the reporting obligations of
 4 the payment settlement entity with respect
 5 to such transactions, and

6 “(ii) such intermediary shall be treat-
 7 ed as the payment settlement entity with
 8 respect to the settlement of such trans-
 9 actions with the participating payees.

10 “(B) ELECTRONIC PAYMENT
 11 FACILITATORS.—In any case where an elec-
 12 tronic payment facilitator or other third party
 13 makes payments in settlement of reportable
 14 transactions on behalf of the payment settle-
 15 ment entity, the return under subsection (a)
 16 shall be made by such electronic payment
 17 facilitator or other third party in lieu of the
 18 payment settlement entity.

19 “(c) REPORTABLE TRANSACTION.—For purposes of
 20 this section—

21 “(1) IN GENERAL.—The term ‘reportable trans-
 22 action’ means any payment card transaction and any
 23 third party network transaction.

1 “(2) PAYMENT CARD TRANSACTION.—The term
2 ‘payment card transaction’ means any transaction in
3 which a payment card is accepted as payment.

4 “(3) THIRD PARTY NETWORK TRANSACTION.—
5 The term ‘third party network transaction’ means
6 any transaction which is settled through a third
7 party payment network.

8 “(d) OTHER DEFINITIONS.—For purposes of this
9 section—

10 “(1) PARTICIPATING PAYEE.—

11 “(A) IN GENERAL.—The term ‘partici-
12 pating payee’ means—

13 “(i) in the case of a payment card
14 transaction, any person who accepts a pay-
15 ment card as payment, and

16 “(ii) in the case of a third party net-
17 work transaction, any person who accepts
18 payment from a third party settlement or-
19 ganization in settlement of such trans-
20 action.

21 “(B) EXCLUSION OF FOREIGN PERSONS.—

22 To the extent provided by the Secretary in reg-
23 ulations or other guidance, such term shall not
24 include any foreign person.

1 “(C) INCLUSION OF GOVERNMENTAL
2 UNITS.—The term ‘person’ includes any govern-
3 mental unit (and any agency or instrumentality
4 thereof).

5 “(2) PAYMENT CARD.—The term ‘payment
6 card’ means any card which is issued pursuant to an
7 agreement or arrangement which provides for—

8 “(A) one or more issuers of such cards,

9 “(B) a network of persons unrelated to
10 each other, and to the issuer, who agree to ac-
11 cept such cards as payment, and

12 “(C) standards and mechanisms for set-
13 tling the transactions between the merchant ac-
14 quiring banks and the persons who agree to ac-
15 cept such cards as payment.

16 The acceptance as payment of any account number
17 or other indicia associated with a payment card shall
18 be treated for purposes of this section in the same
19 manner as accepting such payment card as payment.

20 “(3) THIRD PARTY PAYMENT NETWORK.—The
21 term ‘third party payment network’ means any
22 agreement or arrangement—

23 “(A) which involves the establishment of
24 accounts with a central organization for the

1 purpose of settling transactions between per-
2 sons who establish such accounts,

3 “(B) which provides for standards and
4 mechanisms for settling such transactions,

5 “(C) which involves a substantial number
6 of persons unrelated to such central organiza-
7 tion who provide goods or services and who
8 have agreed to settle transactions for the provi-
9 sion of such goods or services pursuant to such
10 agreement or arrangement, and

11 “(D) which guarantees persons providing
12 goods or services pursuant to such agreement
13 or arrangement that such persons will be paid
14 for providing such goods or services.

15 Such term shall not include any agreement or ar-
16 rangement which provides for the issuance of pay-
17 ment cards.

18 “(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY
19 THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third
20 party settlement organization shall not be required to re-
21 port any information under subsection (a) with respect to
22 third party network transactions of any participating
23 payee if the amount which would otherwise be reported
24 under subsection (a)(2) with respect to such transactions

1 does not exceed \$10,000 and the aggregate number of
 2 such transactions does not exceed 200.

3 “(f) STATEMENTS TO BE FURNISHED TO PERSONS
 4 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

5 Every person required to make a return under subsection
 6 (a) shall furnish to each person with respect to whom such
 7 a return is required a written statement showing—

8 “(1) the name, address, and phone number of
 9 the information contact of the person required to
 10 make such return, and

11 “(2) the aggregate amount of payments made
 12 to the person required to be shown on the return.

13 The written statement required under the preceding sen-
 14 tence shall be furnished to the person on or before Janu-
 15 ary 31 of the year following the calendar year for which
 16 the return under subsection (a) was required to be made.

17 “(g) REGULATIONS.—The Secretary may prescribe
 18 such regulations or other guidance as may be necessary
 19 or appropriate to carry out this section, including rules
 20 to prevent the reporting of the same transaction more
 21 than once.”.

22 (b) PENALTY FOR FAILURE TO FILE.—

23 (1) RETURN.—Subparagraph (B) of section
 24 6724(d)(1) is amended—

1 (A) by striking “or” at the end of clause
 2 (xx),

3 (B) by redesignating the clause (xix) that
 4 follows clause (xx) as clause (xxi),

5 (C) by striking “and” at the end of clause
 6 (xxi), as redesignated by subparagraph (B) and
 7 inserting “or”, and

8 (D) by adding at the end the following:

9 “(xxii) section 6050W (relating to re-
 10 turns to payments made in settlement of
 11 payment card transactions), and”.

12 (2) STATEMENT.—Paragraph (2) of section
 13 6724(d) is amended by striking “or” at the end of
 14 subparagraph (BB), by striking the period at the
 15 end of the subparagraph (CC) and inserting “, or”,
 16 and by inserting after subparagraph (CC) the fol-
 17 lowing:

18 “(DD) section 6050W(c) (relating to re-
 19 turns relating to payments made in settlement
 20 of payment card transactions).”.

21 (c) APPLICATION OF BACKUP WITHHOLDING.—
 22 Paragraph (3) of section 3406(b) is amended by striking
 23 “or” at the end of subparagraph (D), by striking the pe-
 24 riod at the end of subparagraph (E) and inserting “, or”,
 25 and by adding at the end the following new subparagraph:

1 “(F) section 6050W (relating to returns
2 relating to payments made in settlement of pay-
3 ment card transactions).”.

4 (d) CLERICAL AMENDMENT.—The table of sections
5 for subpart B of part III of subchapter A of chapter 61
6 is amended by inserting after the item relating to section
7 6050V the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment
card transactions.”.

8 (e) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as otherwise pro-
10 vided in this subsection, the amendments made by
11 this section shall apply to returns for calendar years
12 beginning after December 31, 2010.

13 (2) APPLICATION OF BACKUP WITHHOLDING.—
14 The amendment made by subsection (c) shall apply
15 to amounts paid after December 31, 2011.

16 **SEC. 205. APPLICATION OF CONTINUOUS LEVY TO PROP-**
17 **ERTY SOLD OR LEASED TO THE FEDERAL**
18 **GOVERNMENT.**

19 (a) IN GENERAL.—Paragraph (3) of section 6331(h)
20 is amended by striking “goods” and inserting “property”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to levies approved after the date
23 of the enactment of this Act.

1 **SEC. 206. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
2 **TAXES.**

3 (a) REPEAL OF ADJUSTMENT FOR 2012.—Subpara-
4 graph (B) of section 401(1) of the Tax Increase Preven-
5 tion and Reconciliation Act of 2005 is amended by striking
6 the percentage contained therein and inserting “100 per-
7 cent”.

8 (b) MODIFICATION OF ADJUSTMENT FOR 2013.—
9 The percentage under subparagraph (C) of section 401(1)
10 of the Tax Increase Prevention and Reconciliation Act of
11 2005 in effect on the date of the enactment of this Act
12 is increased by 59.5 percentage points.

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